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To: Senator Vicki Schmidt, Chairperson
Senate Committee on Ethics & Elections

From: Callie Jill Denton JD
Director of Public Affairs

Date: March 10, 2010

Re: Hearing on SB 563 Campaign Finance Act; Application to Retention
Election for Judges (PROPONENT—WRITTEN ONLY)

The Kansas Association for Justice is a non-profit professional organization of Kansas attorneys. The Kansas Association for Justice supports SB 563.

Kansas is not alone in grappling with the challenge of campaign finance, disclosure, and the judiciary. In 39 states, including Kansas, at least some appellate or major trial court judges face traditional elections or retention elections. From 2000-2009, state supreme court candidates raised \$206.4 million nationally, more than double the \$83.3 million spent in 1990-99—and that does not include independent campaign expenditures.

The problem with the infusion of money and increased electioneering is the potential for damage to the public's perception of judicial independence. Just this week, a new poll of West Virginia citizens by Justice at Stake and the Committee for Economic Development was released. The poll underscores the public's strong expectations of judicial independence.

Seventy-eight percent (78%) of citizens polled felt campaign expenditures have a "great deal of" or "some" influence on courtroom decisions by elected judges. The same number, 78 percent, said judges should not hear any cases "involving any organization, business, or individual who spent significant amounts of money to help elect them." Seventy-five percent support tougher disclosure rules, saying that special-interest groups which spend money on "independent" campaigns should be required to disclose who is paying for such campaigns.

The challenge for policymakers is not only to guard the independence of the judiciary, but to guard the public's perception of its independence. In Federalist Paper #78, Alexander Hamilton wrote, "This independence of the judges is...requisite to guard the Constitution and the rights of individuals." Disclosure of information to the public is an important means of protecting the independence and impartiality of the judiciary.

SB 563 appropriately shines a spotlight on those making expenditures or contributing to campaigns relating to judicial retention by requiring public disclosure. The Kansas Association for Justice believes requiring disclosure of expenditures relating to judicial retention elections under the Kansas campaign finance act is reasonable, appropriate, and a positive step to protecting judicial independence and public perception.

The Kansas Association for Justice respectfully requests the committee's support of SB 563.